

TYPE II LAND DIVISION & ENVIRONMENTAL REVIEW, STAFF REPORT & DECISION

Form DS1401 PLD



Project Name: TIKKA SHORT PLAT

Case Number: PLD2009-00036; SEP2009-00060; SHL2009-00005; EVR2009-00029; GEO2009-00015

Location: 15931 NE 112th Avenue

Request: The applicant is proposing to divide approximately 17.5 acres located in an R-5 zoning district into three (3) single-family residential lots containing approximately 7.85 acres, 5.0 acres and 5.0 acres each.

Applicant: HFI Consultants
Tim Halme
10 South Parkway Avenue, Suite 201
Battle Ground, WA 98604

Contact Person: HFI Consultants
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Property Owner: Helen Tikka
15931 NE 112th Avenue
Brush Prairie, WA 98606

DECISION

Approve Subject to Conditions

Team Leader's Initials: ATH **Date Issued:** December 22, 2009

County Review Staff:

	<u>Name</u>	<u>Phone Ext.</u>	<u>E-mail Address</u>
Planner:	Vicki Kirsher	4178	vicki.kirsher@clark.wa.gov
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Engineer: (Trans. Concurrency)	David Jardin	4354	david.jardin@clark.wa.gov
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Wetland Biologist:	Brent Davis	4152	brent.davis@clark.wa.gov
Fire Marshal Office:	Tom Scott	3323	tom.scott@clark.wa.gov

Comp Plan Designation: Rural

Parcel Number: Lot 39 (195263) located in the Southwest quadrant of Section 15; Township 3 North; Range 2 East of the Willamette Meridian

Applicable Laws:

Clark County Code 40.200 (General Provisions); 40.220.020 (Rural Districts, R-5); 40.320 (Landscaping and Screening); 40.350.020 (Transportation Concurrency); 40.350.030 (Street and Road Standards); 40.380 (Stormwater and Erosion Control); 40.420.010 (Floodplain); 40.430 (Geologic Hazard Area); 40.440 (Habitat Conservation); 40.450 (Wetland Protection); 40.500.010 (Procedures); 40.510.020 (Type II Process); 40.520.010 (Legal Lot Determination); 40.540.030 (Short Plats); 40.550.010 (Road Modifications); 40.570 (SEPA); 40.610 and 40.620 (Impact Fees); Title 14 (Buildings and Structures); 15.12 (Fire Code); Title 24 (Public Health); RCW 58.17 (State Platting Laws); Clark County Shoreline Management Master Program; the Clark County Comprehensive Plan; WAC 173-27 (Shoreline Procedures); and RCW 90.58 (Shoreline Management Act).

Neighborhood Association/Contact:

Greater Brush Prairie Neighborhood Association
Sam Kim, President
14915 NE 126th Avenue
Brush Prairie, WA 98606
(360) 896-7119
E-mail: brushprairie@comcast.net

Vesting:

An application is reviewed against the subdivision, zoning, transportation, stormwater and other land development codes in effect at the time a fully complete application for preliminary approval is submitted. If a pre-application conference is required, the application shall earlier contingently vest on the date the fully complete pre-application is filed. Contingent vesting requires that a fully complete application for substantially the same proposal is filed within 180 calendar days of the date the county issues its pre-application conference report.

A pre-application conference on this matter was held on November 6, 2008. The pre-application was determined to be not contingently. The fully complete application was submitted on August 25, 2009, and determined to be fully complete on August 27, 2009. Given these facts, the application is vested August 25, 2009. There are no disputes regarding vesting.

Time Limits:

The application was determined to be fully complete on August 25, 2009. The application was placed on hold for 12 days when the Fully Complete copies were not submitted within the prescribed timeframe, and again for another 28 days so the applicant could submit additional information to address engineering issues; thereby extending the deadline by 40 days. Therefore, the County Code requirement for issuing a decision within 78 days lapses on December 23, 2009.

Public Notice:

Notice of application and likely SEPA Determination of Non-Significance (DNS) was mailed to the applicant, Greater Brush Prairie Neighborhood Association, and property owners within 500 feet of the site on September 18, 2009.

Public Comments:

A series of written correspondence [*Exhibits 8, 9, 10, 11 and 14*] were received from Ryan Taroski, attorney for Nick and Sharon Galloway, property owners residing at 15921 NE 112th Avenue. Mr. Taroski raises the following issues regarding the proposed land division:

- a. The SEPA notice did not reference federal statutes nor the Code of Federal Regulations.

Staff Response

SEPA is a state requirement mandating local jurisdictions to consider likely environmental consequences of a proposal, and then determine what action is appropriate to mitigate for significant adverse impacts. The SEPA checklist and notice of application is mailed to the tribes and over 20 federal, state, regional, special purpose, and local agencies whose services may be impacted by implementation of the project. These agencies then have the opportunity to identify any environmental concerns, and submit written comments to the county on those matters that fall under that agency's jurisdiction. Any issues raised are then included in both the final SEPA determination and the county's land use decision. While the notice may not specifically reference federal statutes, the review process established for SEPA works with environmental regulations at all levels of government to provide a comprehensive review of a proposal.

- b. "There may be problems with how the easement was conveyed due to contradictory language in the deeds that conveyed the servient property to the Galloways."

Staff Response

The applicant has provided a Statutory Deed for the subject property which identifies "an easement for ingress, egress and utilities over, under and across an existing roadway running east from County Road known as 112th Avenue" [*Exhibit 1, Tab 13*]. Mr. Taroski indicates there 'may' be a problem with this easement but did not submit any supporting documentation identifying the nature or scope of this potential problem. On the other hand, the applicant's attorney has provided information regarding the scope of this easement serving the proposed short plat. This information was reviewed by the County's Prosecuting Attorney and determined adequate for purposes of this review [*Exhibit 27*].

- c. An existing septic tank on the development site "is located in proximity to the Galloway's well"

Staff Response

The Public Health Department is the county agency responsible for administering regulations governing wells and on-site sewage disposal systems. As part of the application materials, a Development Review Evaluation from that agency was submitted [*Exhibit 1, Tab 12*]. It indicates that "the drainfield for the house is less than 100 feet from the neighboring well", and identifies what specific action that must be taken in order for the drainfield to remain at this location. See Utilities Finding 2 below.

- d. Bald eagles have been seen "in the area and around the easement to be affected by this plan....The Galloways and others have seen, on numerous occasions [*sic*] nesting eagles, falcons, beaver, owl, fox, coyote, etc."

Staff Response

Bald eagle habitat is regulated by Clark County under CCC 40.440.010(C)(1)(b). This code provision states that Priority Habitat Species (PHS), as defined by the Washington Department of Fish and Wildlife (WDFW), are protected by the county. The PHS map does not identify any bald eagle nests on or near the subject 17.5 acre parcel. Furthermore, the County's habitat biologist visited the development site during the course of his review. He did not observe bald eagle nesting activity which would trigger either the County's critical area ordinance or interest by WDFW.

Depending on the species, falcons and owls *may* be protected by provisions CCC 40.440.010(C)(1)(b). However, the PHS map does not show any protected occurrences on or near this site. Once again, none were noted by County staff during the site visit. Beaver, fox, and coyote are not protected by the Clark County Habitat Conservation Ordinance as they are not included on the PHS list by WDFW.

- e. Has this proposal been exempted from the Habitat Ordinance?

Staff Response

The proposed land division is subject to requirements of the County's Habitat Conservation. The preliminary plan [*Exhibit 2*], however, shows building envelopes on the resulting parcels that are outside riparian Habitat Conservation Zones. As a result, the proposal meets exemption criteria of the Ordinance for requiring a habitat permit. See Habitat Findings for additional discussion.

- f. Rather than utilize the existing easement from NE 112th Avenue for access, the newly created lots should be required to take access from Highway 503/NE 117th Avenue to the east.

Staff Response

As previously noted, the applicant submitted a Statutory Warranty Deed which identifies an access easement running from NE 112th Avenue to the subject property. Based available information, it does not appear that additional lots created by dividing this parcel are precluded from also using this easement for access.

The development site does not currently have legal access rights across the property between it and SR 503 to the east. Even assuming the applicant can secure an easement from this owner, the Washington State Department of Transportation has indicated in an email that it is highly unlikely approval will be granted for a new access from SR 503 because this portion of the State Highway is classified as "Limited Access" [*Exhibit 17*].

- g. Does RCW 64.04.175¹ which “addresses circumstances wherein easements may be extinguished or altered where alternatives exist” apply to this proposal?

Staff Response

The applicant is not proposing to vacate or alter the easement in question. Therefore, staff concludes this statute is not applicable to the requested land division.

The applicant has provided a response to this question through his attorney, Jeff Lindberg [Exhibits 16 and 19]. Mr. Lindberg contends “that statute governs the extinguishment or alteration of easements established by *dedication*. Here the easement used to access Mrs. Tikka’s parcel was established by reservation, not by dedication. In all events, Mrs. Tikka does not propose to extinguish or alter the easement benefiting her parcel. As such, RCW 64.04.175 has no bearing on the Tikka application”.

Mr. Taroski submitted a letter dated December 13, 2009 [Exhibit 29] and another undated letter [Exhibit 30] in rebuttal to the applicant and his attorney’s response to issues raised by him above. Mr. Taroski is under the mistaken impression that an Environmental Impact Statement (EIS) was required for this project. An EIS is prepared only when it is determined that a proposal is likely to result in significant adverse environmental impacts. During the ‘threshold determination’ process, County staff reviewed the submitted SEPA checklist and deemed that applying County Code would reduce any impacts of this proposal to a non-significant level. As a result, a likely ‘Determination of Non-Significance’ was issued. Comments received from Mr. Taroski and SEPA agencies during review of this application did not present any new information that would necessitate a new threshold determination or an EIS.

Project Overview

The 17.5 acre parcel is located 450 feet east of NE 112th Avenue, and approximately 1,200 feet north of NE 154th Street. The property currently contains a residence, a guest house, a pool house, a barn, a pump house, a shed, and a garage. Other than the shed which is scheduled for removal, these existing improvements are slated to remain on proposed Lot 1.

The applicant is proposing to divide these 17.5 acres into three (3) single-family residential lots containing approximately 7.85 acres, 5.0 acres and 5.0 acres each.

The existing residence currently obtains access from NE 112th Avenue via a private driveway across an adjacent property to the west. The preliminary plan [Exhibit 2] calls for extending this driveway to serve proposed Lots 2 and 3. The applicant has

¹ Easements established by dedication – Extinguishing or altering. Easements established by a dedication are property rights that cannot be extinguished or altered without the approval of the easement owner or owners, unless the plat or other document creating the dedicated easement provides for an alternative method or methods to extinguish or alter the easement. [RCW 64.04.175]

requested a road modification to waive the requirement that this access way be improved to private road standards.

Salmon Creek runs along the northern boundary of the property. Its floodplain and shoreline areas extend on to the site. In addition, there are wetlands, riparian habitat and slopes on the acreage. The plan shows building envelopes which restrict development activity from occurring within either these environmentally sensitive areas or their buffers.

The site is located within the Battle Ground School District and Fire District #3.

The comprehensive plan designation, zoning, and uses of both the subject and surrounding properties are noted in the following table:

Compass	Comp Plan	Zoning	Current Land Use
Site	Rural	R-5	Acreage homesite
North	Agriculture	AG-20	Acreage homesite/pastureland
East	Rural	R-5	Acreage homesite
South	Rural	R-5	Acreage homesite
West	Rural	R-5	Acreage homesite

Staff Analysis

Staff first analyzed the proposal in light of the 16 topics from the Environmental Checklist (see list below). The purpose of this analysis was to identify any potential adverse environmental impacts that may occur without the benefit of protection found within existing ordinances.

- | | |
|---------------------------------|--|
| 1. Earth | 9. Housing |
| 2. Air | 10. Aesthetics |
| 3. Water | 11. Light and Glare |
| 4. Plants | 12. Recreation |
| 5. Animals | 13. Historic and Cultural Preservation |
| 6. Energy and Natural Resources | 14. Transportation |
| 7. Environmental Health | 15. Public Services |
| 8. Land and Shoreline Use | 16. Utilities |

Staff then reviewed the proposal for compliance with applicable code criteria and standards in order to determine whether all potential impacts will be mitigated by the requirements of the code.

Staff's analysis also reflects review of agency and public comments received during the comment period, and knowledge gained through a site visit.

Major Issues:

Only the major issues, errors in the development proposal, or justification for any conditions of approval are discussed below. Staff finds that all other aspects of this proposed development comply with the applicable code requirements and, therefore, are not discussed below.

LAND USE:**Finding 1 – Lot Standards**

Table 40.210.020-2 contains lot standards for the R-5 zoning district. The minimum lot area is 5 acres. In addition, the zone prescribes a minimum lot width of 140 feet. There is no minimum depth requirement.

Based on a review of revised preliminary plan [*Exhibit 2*], all resulting parcels meet the minimum lot size set forth for the R-5 zone. In addition, these parcels also satisfy the prescribed width requirement of the zoning district.

Finding 2 – Setbacks

Standard setback requirements for residential structures on lots within an R-5 zoning district are established in Table 40.220.020-3. These include:

- Front – 50 feet
- Street Side – 25 feet
- Interior Side – 20 feet
- Rear – 20 feet

Accessory buildings used for agricultural purposes shall maintain a 50-foot side yard setback. A note to this effect will be placed upon the final plat (*See Condition D-14-a*).

The applicant has shown building envelopes on each of the resulting parcels. These envelopes reflect where development can occur to avoid regulated habitat, wetlands, floodplain, shoreline and steep slope areas; all of which exceed the standard setbacks noted above from the north property line.

The building envelope shown on Lot 1 does not properly reflect the 25-foot street side setback required from the roadway running along the southern boundary of the site. This deficiency shall be corrected on the final plat (*See Condition D-1*).

The barn on Lot 1 currently meets the 50-foot agricultural side setback from the south property line. With the required right-of-way dedication (*See Transportation Finding 1 below*), however, this setback will be reduced so the barn will be situated only 20+ feet from the edge of this roadway. Since this setback reduction occurred through no fault of the applicant, it shall be considered a legal non-conforming situation. If dedication is not required (*See Transportation Finding 1*), and this becomes 20-foot joint access easement, the barn will meet the street side setback prescribed above.

The preliminary plan [*Exhibit 2*] does not show the greater 30-foot rear setback required along the eastern property line of Lot 1 for fire protection purposes (*See Fire Protection Finding 3*). The existing barn is not situated 30 feet from the newly proposed boundary between Lot 1 and Lot 2. Therefore, this property line shall either be relocated to so the barn meets the prescribed setback or the barn shall be removed prior to recordation of the final plat (*See Condition D-2*).

Similarly, this same 30-foot setback for fire protection purposes is necessary from the side lot lines of Lots 2 and 3. This oversight shall be corrected on the final plat (*See Condition D-3*).

A shed on proposed Lot 1 is not only located within the street side setback but is also partially situated within the right-of-way for the new road. As a result, a condition will be imposed that this structure be removed prior to recordation of the final plat (*See Condition D-4*).

To avoid any confusion at time of building permit issuance, distance of said envelopes to all property lines shall be clearly identified on the final plat (*See Condition D-5*).

Finding 3 – Landscaping

CCC 40.320.010 requires perimeter landscaping and screening between adjoining properties and uses. The degree and height of the required screening is based upon zoning of both the proposed development and the neighboring properties.

The subject 17.5 acre development site is bordered on the north by land located in an AG-20 zoning district. As a result, a landscape buffer is required along this perimeter of the site in accordance with Table 40.320.010-1. The prescribed standard is a 50-foot wide buffer landscaped to an L3 standard.

The L3 standard requires enough high shrubs to form a screen six (6) feet high and ninety-five percent (95%) opaque year-round. In addition, one (1) tree is required per thirty (30) lineal feet of landscaped area or as appropriate to provide a tree canopy over the landscaped area. Ground cover plants must fully cover the remainder of the landscaped area. A six (6) foot high wall or fence that complies with an F1 or F2 standard with or without a berm may be substituted for shrubs, but the trees and groundcover plants are still required.

The required sensitive area buffers and the existing vegetation both exceed those standards specified for landscape buffers. The landscape buffer, therefore, is not needed along the northern property boundary.

Finding 4 – Existing Structures

An existing shed, and possibly the barn, will be removed from the premises. A condition will be imposed to ensure this structure(s) is removed with the necessary permits (*See Condition B-4*). It should be noted that, as part of these demolition permits, the applicant will be required to comply with all applicable asbestos inspection and control

regulation in accordance with procedures of the Southwest Clean Air Agency identified below.

Finding 5 – Proximity to Agricultural Zone

In accordance with 40.510.020(D)(5), all plats, building permits or development approvals issued for residential development activities on or within five hundred (500) feet of lands zoned agriculture (AG-20) shall include a disclosure regarding the property's proximity to designated resource lands. This declaration shall advise of potential conflicts between commercial agricultural activities on nearby lands and said residential development. In the case of short plats, such notice shall be provided in the Developer Covenants to Clark County (*See Condition D-12-f*).

Conclusion (Land Use): Staff concludes that the proposed preliminary plan, subject to the condition identified above, meets land use requirements of the Clark County Code.

ARCHAEOLOGY:

Finding 1 – Historic and Cultural Preservation

A portion of the subject 17.5 acres is located within a moderate to high (60 -100 percent) probability area for discovery of archaeological resources, as designated on the Archaeological Predictive Model Map of Clark County. Therefore, a completed archaeological predetermination was required as part of the application submittal packet.

An archeological survey of the property was performed, and the predetermination report recommended no further archaeological work is necessary at this time. The report was reviewed by the Department of Archaeology and Historic Preservation (DAHP). The agency concurs with this recommendation [*Exhibit 1, Tab 11*]. However, a condition will be imposed that in the event any cultural resources are discovered in the course of undertaking development activity for this project, DAHP shall be notified (*See Condition D-14-b*).

Conclusion (Archaeology): Staff finds that the proposed preliminary plan, subject to the conditions identified above, meets archaeology requirements of the Clark County Code.

SOUTHWEST CLEAN AIR AGENCY:

Finding 1 – Demolition of Structures

In response to SEPA notice, a letter was received from Southwest Clean Air Agency (SWCCA) on September 23, 2009 [*Exhibit 6*]. This written correspondence states that asbestos inspection and abatement regulations apply to demolition of existing structures on the site. It cites the applicable requirements and procedures to follow if an inspection reveals the presence of asbestos. The County requires permits prior to removal and/or demolition of structures (*See Land Use Finding 4 and Condition B-4*). The demolition permit process will ensure compliance with SWCAA requirements.

Finding 2 – Dust Abatement

The letter also recognizes that construction activities have the potential to generate dust nuisances related to the movement of equipment and material handling operations. It notes that all parties involved with the project are required to minimize dust through preventative measures, and that violations can result in penalties being assessed against the property owner or project operator.

Compliance with the county's Stormwater and Erosion Control Ordinance, however, will mitigate or prevent impacts from dust (*See Stormwater Findings and Condition A-4*).

Finding 3 – Air Contaminants

SWCCA regulates the installation and/or modification of any building, structure, or facility that emits or may emit an air contaminant. If the application includes any new or modified air pollutant sources, an Air Discharge Permit may be required.

The applicant has been provided with a copy of the letter from SWCCA, and is separately responsible for complying with state and federal regulations should project activities create a new or increased source of air contaminants.

DEPARTMENT OF ECOLOGY:

Finding 1 – Toxic Clean-up

The Washington Department of Ecology (DOE) submitted a letter, dated October 19, 2009 [*Exhibit 12*]. This correspondence notes that there is a known contaminated site within a half-mile radius of the proposed development site, and advises that "if environmental contamination is discovered on the site it must be reported to Ecology's Southwest Regional Office."

The applicant has been provided with a copy of the DOE letter, and is separately responsible for compliance with all state and federal regulations. An advisory condition will be imposed requiring the developers to be alert for contamination during construction, and to notify the Department of Ecology if contamination is discovered (*See Condition B-5*).

Finding 2 – Water Quality

Any discharge of sediment-laden runoff or other pollutants to water of the state is a violation of state statute. It also specifies that "erosion control measures must be in place prior to any clearing, grading or construction" on site and identifies several preventative measures to be taken to ensure such discharge does not occur." An erosion and dust control plan is required by County Code (*See Condition A-4*). Construction activities will be monitored by inspection staff to ensure compliance with the approved plan.

Finding 3 – Water Resources

In the same letter from DOE, it is noted that “any ground water withdrawals in excess of 5,000 gallons per day or for the irrigation of more than one-half acre of lawn or noncommercial garden requires a water right from Ecology”. It further notes that wells must be constructed in compliance with Chapter 173-160 WAC. Installation of wells will be reviewed by the Health Department for compliance with these standards prior to recordation of the final plat.

HABITAT:

Finding 1 – Applicability

Salmon Creek, a type S (shoreline of the state) stream, and several type Ns (non-fish bearing, seasonal) tributaries are present on the property. The riparian Habitat Conservation Zone (HCZ) for type S streams is 250 feet. Type Ns streams require 75-foot riparian HCZ's.

Finding 2 – Building Envelopes

The applicant has delineated building envelopes that are outside of the riparian HCZ's on the site. Staff finds this meets exemption criterion identified in Table 40.440.010-1, row 2 of the Habitat Conservation Ordinance provided building envelopes and habitat areas are shown on the face of the final plat (*See Condition D-6*).

Conclusion (Habitat): Staff finds that the proposed short plat can comply with the Habitat Conservation Ordinance, subject to the condition of approval identified above.

WETLANDS:

Finding 1 – Wetland Boundaries

The wetland and buffer boundaries shown on the preliminary plat were verified, and the proposed development envelopes were approved under a previously issued Wetland Determination (WET2009-00050). The wetlands and wetland buffers are located entirely within the riparian habitat areas shown on the preliminary plat.

Finding 2 – Development Envelopes

The proposed development envelopes comply with CCC 40.450.030(G)(2). The proposed land division can, therefore, comply with approval standards in CCC 40.450 provided that standard conditions are met prior to final plat approval (*See Conditions C-1, D-7, D-14-d and D-14-e*).

Conclusion (Wetlands): Staff finds that the proposed preliminary plan, subject to conditions, meets wetland requirements of the Clark County Code.

FLOODPLAIN:

Finding 1 – Applicability

A floodplain inquiry (FLP2009-00001) was performed for the proposed short plat. Preliminary FEMA Flood Insurance Rate Map 53011C0381D and the County's GIS information were utilized.

Based upon this review, it has been determined that building envelopes shown on the preliminary plat for this 3-lot land division will be outside of the FEMA 100-year flood hazard area for Salmon Creek. Therefore, a floodplain permit is not required.

Conclusion (Floodplain): Staff finds that the proposed preliminary plan, subject to conditions identified above, meets the floodplain requirements of the Clark County Code.

SHORELINE:

Finding 1 – Jurisdiction

Salmon Creek, a waterway protected under the Clark County Shoreline Management Master Program, runs along the northern boundary of the subject property. Shoreline jurisdiction encompasses the area within 200 feet of the ordinary high mark, all 100-year floodplains and all associated wetlands. This land division request, therefore, is subject to provisions of the Shoreline Management Act. An application for a Shoreline Conditional Use Permit has been submitted (SHL2009-00005) in conjunction with the proposed short plat.

The preliminary plat [*Exhibit 2*] identifies the ordinary high water mark line for Salmon Creek and the riparian Habitat Conservation Zone described in Habitat Finding 1. As noted in Wetland Finding 1 above, the wetlands and wetland buffers are located entirely within these habitat areas. The preliminary plat shows building envelopes which clearly are clearly outside the habitat areas which extend further from the creek than the prescribed 200 feet of the Shoreline Management Act. In addition, a floodplain inquiry performed by the County “determined that the building envelopes will be outside of the FEMA 100-year flood hazard area for Salmon Creek” (FLP2009-00001). Therefore, no development activities are being proposed within the jurisdictional shoreline on the subject property. Even so, the final plat shall delineate that area located within shoreline jurisdiction (*See Condition D-8-a*). In addition, a plat note will be required that advising that any vegetation removal or development within this area may require review for compliance with the Clark County Shoreline Master Program (*See Condition D-14-f*).

The preliminary plat [*Exhibit 2*] identifies a proposed driveway turnout on the adjacent parcel to the west but another map [*Exhibit 26*] indicates this is an existing turnout. Both this portion of the driveway and the turnout are situated within both the jurisdictional shoreline and the riparian habitat. Therefore, any alteration or

improvement to this existing driveway and/or turnout may necessitate a Shoreline Permit and/or Habitat Permit (*See Condition A-1 and G-1*).

Finding 2 – Permit Required

The County's shoreline review committee has met and determined that the proposed short plat, as proposed, does not impact the shoreline jurisdiction. This recommendation will be sent to the Department of Ecology (DOE) when the final decision for the land division has been issued and the appeal period expired. Once DOE has received it, they then have 30 days in which to render a decision on the permit. A condition of approval for this land division will require that an approved Shoreline Conditional Use Permit shall be obtained prior to any construction or development (*See Condition D-8-b*).

Conclusion (Shoreline): Staff finds that the proposed preliminary plan, subject to condition identified above, meets the shoreline requirements of the Clark County Code.

GEO-HAZARD:

Finding 1 – Applicability

All development activities in or adjacent (within 100 feet) to geologic hazard areas shall comply with the provisions of CCC 40.430. In accordance with the county GIS mapping, a large portion of the property is designated as areas of potential instability. Future home owners must be notified that placing any structure within or adjacent to the areas of potential instability will require geotechnical analysis.

The applicant has submitted a letter which cites two separate land division applications and indicating that this development is exempt in accordance with CCC 40.430.010(B)(2)(e) which states: "Any development activity on or within one hundred (100) feet of steep slopes that have been created through previous, legal grading activities is exempt from steep slope hazard regulations". Staff finds that the letter is not relevant to this application.

The applicant has submitted a preliminary plat that shows the slope setbacks. For proposed Lot 1, the preliminary plat shows the setback reduced to 50 feet instead of the required 100 feet. This is incorrect and shall be corrected on the final plat (*See Condition D-9 and E-1*). Except for existing improvements on Lot 1, all future structures constructed on lots within this short plat are subject to the 100-foot setback requirements. A plat note to this effect will be required (*See Condition D-14-h*).

Conclusion (Geo-Hazard): Staff finds that the proposed preliminary plan, subject to conditions identified above, meets geo-hazard requirements of the Clark County Code.

TRANSPORTATION:

Finding 1 – Roads

NE 112th Avenue is a Rural Local Access Roadway. The applicant's property does not have frontage along this roadway. Therefore, right-of-way dedication is not warranted along the frontage of this road.

The Clark County Arterial Atlas shows a future Rural Major Collector road (R-2) requiring a full-width right-of-way of 60 foot along the applicant's southern property line. As a requirement of this land division, the applicant shall dedicate a 30-foot half-width right-of-way for this future collector road. The applicant, however, has made a request to Clark County Community Planning to have this future roadway along the applicant's southern property line deleted from the arterial atlas. Therefore, if this change is granted, a 30-foot half-width right-of-way dedication would not be required. In such case, a 20-foot joint driveway easement would be allowed (*See Condition A-2-a*).

The applicant proposes to utilize an existing joint driveway, currently serving the applicant's property and the property to the west, to provide access to the proposed 3-lot short plat. In accordance with CCC 40.350.030(B)(11), a maximum of 3 legal lots may use a joint driveway. To serve 4 legal lots, the joint driveway must be improved to a private road standards extending from NE 112th Avenue to a point where the joint driveway serves only 3 lots. Private road in rural area requires a 20-foot wide all weather surface within a 30-foot right-of-way. The existing joint driveway serving the 2 existing lots has an average width of 13 feet. The applicant proposes to add 2 more lots to this joint driveway. The applicant has submitted a road modification to allow 4 lots to use the existing joint driveway in lieu of constructing it to the private road standards. The road modification has been approved subject to conditions (*See Transportation Finding 4 below*).

Finding 2 – Driveway Requirements

Driveways shall have a minimum width of 12 feet of clear, unobstructed driving surface. Driveways longer than 300 feet shall be provided with an approved turnaround at the terminus. There shall also be approved turnouts constructed such that the maximum distance from turnout to turnout or from turnout to turnarounds does not exceed 500 feet (*See Condition A-2-b*).

The existing joint driveway entrance shall be paved back a minimum of 20 feet from the edge of NE 112th Avenue or to the edge of right-of-way, whichever is greater. This driveway shall be built to Clark County standard detail Drawing #F20 (*See Condition A-2-c*).

The existing joint driveway easement shall be extended from the westerly lot line of the proposed Lot 1 to the proposed Lot 3 with a minimum 12-foot wide all weather surface within a 20-foot easement (*See Condition A-2-d*).

Finding 3 – Joint Driveway Sight Distance

The existing joint driveway at NE 112th Avenue is deficient in sight distance. The applicant has submitted a road modification for the deficient sight distance. The road mod has been approved (*See Transportation Finding 4*).

Finding 4 – Road Modification (EVR2009-00029)

The applicant has requested the following road modifications:

1. In lieu of improving the existing driveway to private road standards as required by the road standards for serving 4 lots, the applicant requests a road modification to allow the existing joint driveway (average width 13 feet) to remain as is with a few minor improvements to serve a total of 4 residential lots; 2 existing and 2 new residential lots.
2. Allow a deviation from the sight distance requirements at the existing joint driveway onto NE 112th Avenue.

Approval Criteria

If a development cannot comply with the Transportation Standards, modifications may be granted in accordance with the procedures and conditions set out in CCC 40.550. The request shall meet one (or more) of the following four specific criteria:

- a. *Topography, right-of-way, existing construction or physical conditions, or other geographic conditions impose an unusual hardship on the applicant, and an equivalent alternative, which can accomplish the same design purpose, is available.*
- b. *A minor change to a specification or standard is required to address a specific design or construction problem, which, if not enacted, will result in an unusual hardship.*
- c. *An alternative design is proposed which will provide a plan equal to or superior to these standards.*
- d. *Application of the standards of the Transportation Standards to the development would be grossly disproportional to the impacts created.*

Staff believes the applicant has provided sufficient justification for the road modification requests, and concurs with recommendations of the applicant's engineer to improve drivability of the joint driveway (*See Condition A-2-e*). Staff believes the proposal complies with 40.550.010(A)(1)(d). Therefore, both road modification requests have been approved subject to conditions [*Exhibit 28*].

Conclusion (Transportation): Staff finds that the proposed preliminary plan, subject to conditions identified above, meets transportation requirements of the Clark County Code.

STORMWATER:

Finding 1 – Applicability

In accordance with the Stormwater and Erosion Control Ordinance (CCC 40.385), new development and redevelopment within the rural areas that adds or replaces impervious area of greater than two thousand (2,000) square feet and less than five percent (5%) of a site, or is a land-disturbing activity greater than seven thousand (7,000) square feet, are subject to the minimum requirements dependent on site-specific characteristics.

Minimum requirements No. 1 through No. 5 shall apply if the project meets all of the following criteria:

- a. Is outside of habitat or wetland areas or their buffers; and
- b. Does not generate runoff in channelized flow or discharge directly or indirectly to the county's storm sewer system; and
- c. Is not located in, and does not discharge onto, steep slope hazard areas or landslide hazard areas as designated in CCC 40.430.010.

Projects not meeting all the criteria in CCC 40.385.020(A)(5)(b)(1) shall be subject to minimum requirements No. 1 through No. 10.

Finding 2 – Stormwater Proposal

The applicant has submitted a preliminary stormwater report stating that this project is subject to stormwater minimum requirements 1 through 7, and 10. Due to recent bi-annual code revision which modified the code section relating to the minimum requirements in a rural area, it is not clear which minimum requirements may be applicable to this proposal. Staff finds, however, that the preliminary stormwater plan proposed by the applicant's engineer is feasible since it proposes to comply with all of the minimum requirements except for 8, which relates to wetland protection but is not applicable because the wetlands are situated outside identified building envelopes on the proposed plat. The stormwater report proposes to fully disperse runoff to meet these requirements (*See Conditions A-4-a, E-2 and F-1*).

Conclusion (Stormwater): Staff concludes that the proposed preliminary stormwater plan, subject to conditions above, is feasible. Therefore, the requirements of the preliminary plan review criteria are satisfied.

FIRE PROTECTION:

Finding 1 – Fire Marshal Review

This application was reviewed by Tom Scott in the Fire Marshal's Office. Tom can be reached at (360) 397-2375 extension 4095 or 3323, or e-mail at tom.scott@clark.wa.gov. Information can be faxed to Tom at (360) 759-6063. Where

there are difficulties in meeting these conditions or if additional information is required, contact Tom in the Fire Marshal's office immediately.

Finding 2 – Building Construction

Building construction occurring subsequent to this application shall be in accordance with the provisions of the county's building and fire codes. Additional specific requirements may be made at the time of building construction as a result of the permit review and approval process (*See Condition E-3-a*).

Finding 3 – Fire Flow

Fire flow in the amount of 500 gallons per minute supplied for 30 minutes duration is required for this application. Information from the water purveyor indicates that the required fire flow is not available within 1,000 feet of the property line. Alternative construction methods shall be used to meet fire flow; this will require 30-foot rear and side setbacks (*See Condition D-3*) and a class "A" rated roof (*See Condition E-3-b*). An automatic fire sprinkler system may be required for new residential structures exceeding 3,600 square feet of habitable space (*See Condition E-3-c*).

Finding 4 – Fire Apparatus Access

The roadways and maneuvering areas as indicated in the application shall meet the requirements of the Clark County Road Standard, or as approved by Public Works Engineering Services. The applicant shall provide an unobstructed vertical clearance of not less than 13.5 feet with an all weather driving surface and capable of supporting the imposed loads of fire apparatus (*See Condition F-2*).

Finding 5 – Fire Apparatus Turnarounds

All private driveways in excess of three hundred (300) feet in length shall be provided with an approved turnaround at the terminus. Turnouts shall be provided at intervals five hundred (500) feet or less, such that no portion of the driveway is in excess of three hundred (300) feet from an approved turnaround or turnout (*See Condition A-2-b*).

Conclusion (Fire Protection): Staff finds that the proposed preliminary plan, subject to conditions identified above, meets fire protection requirements of the Clark County Code.

UTILITIES:

Finding 1 – Water Supply

The existing residence is served by a well, and the applicant is proposing to serve both new lots with private wells. The applicant has provided a Development Review Evaluation performed by the Clark County Health Department which indicates that individual wells are appropriate for this land division, subject to conditions (*See Condition D-10*).

Finding 2 – Sewerage

The proposed Lot 1 has an existing residence and an existing guest house with an on-sewerage system or systems. A verification was completed for the system which serves the dwelling. It appears, however, that the guest house would not have gravity flow to the septic tank for the house. It must be determined prior to final plat whether the existing guest house has plumbing and, if so, whether it is connected to the same system as the house. If the guest house has plumbing and is not connected to the on-site system serving the dwelling, a satisfactory verification of the guest house system or connection of any guest house plumbing to an approved on-site system will be required prior to final plat approval (*See Condition D-10-j*).

The existing on-site system(s) require satisfactory Operation and Maintenance (O&M) inspection(s) be completed (*See Condition D-10-k*). The O&M inspections must be current at the time of final plat. The drainfield for the residence on Lot 1 is less than 100 feet from the neighboring well. It has been determined that there is sufficient area for two full-size conforming reserve areas. Replacement of this drainfield will not be required IF a current satisfactory Operation and Maintenance is completed prior to final plat.

The two (2) additional lots will be served by separate on-site septic systems. The Development Review Evaluation from the Health Department describes the requirements for serving the development with septic systems (*See Condition D-10*).

The Evaluation also indicates that the approved initial, reserve and/or existing sewage system sites shall be protected from damage due to development. These sites shall be maintained so they are free from encroachment by any impervious material, and shall not be subjected to vehicular traffic or other activity which would adversely affect the soil. A note to this effect shall be placed upon the final plat (*See Condition D-14-c*).

Conclusion (Utilities): Staff finds that the proposed preliminary plan, subject to conditions identified above, meets the water and sewer service requirements of the Clark County Code.

IMPACT FEES:

Finding 1 – Existing Dwelling

As previously noted, there is an existing dwelling on the development site. Therefore, impact fees will be waived for Lot 1 upon which the residence is located. Said lot shall be identified on the final plat (*See Condition D-11*).

Finding 2 – Impact Fees

The two (2) additional residential lots created by this plat will produce impacts on schools, parks, and traffic, and are subject to School (SIF) and Traffic Impact Fees (TIF) in accordance with CCC 40.610.

The site is located within:

- Rural 1 sub-area with a TIF of \$2,749.47 per dwelling (\$1,402.23 – local and \$1,347.24 – regional);
- Battle Ground School District with a SIF of \$8,290.00 per dwelling;

Impact fees shall be paid prior to issuance of building permits for each new lot (See *Conditions D-12-g and E-4*). If a building permit application is made more than three years following the date of preliminary plat approval, impact fees will be recalculated according to the then-current ordinance rate.

SEPA DETERMINATION

As lead agency under the State Environmental Policy Act (SEPA) Rules [Chapter 197-11, Washington Administrative Code (WAC)], Clark County must determine if there are possible significant adverse environmental impacts associated with this proposal. The options include the following:

- **DS = Determination of Significance** (The impacts cannot be mitigated through conditions of approval and, therefore, require the preparation of an Environmental Impact Statement (EIS);
- **MDNS = Mitigated Determination of Non-Significance** (The impacts can be addressed through conditions of approval); or,
- **DNS = Determination of Non-Significance** (The impacts can be addressed by applying the County Code).

The likely SEPA determination of Non-Significance (DNS) in the Notice of Development Review Application issued on September 18, 2009 is hereby final.

SEPA APPEAL PROCESS:

An **appeal** of this SEPA determination and any required mitigation must be filed with the Department of Community Development within fourteen (14) calendar days from the date of this notice. The SEPA appeal fee is **\$1,493**.

A **procedural appeal** is an appeal of the determination (i.e., determination of significance, determination of non-significance, or mitigated determination of non-significance). A **substantive appeal** is an appeal of the conditions required to mitigate for probable significant issues not adequately addressed by existing County Code or other law.

Both the **procedural and substantive appeals** must be filed within fourteen (14) calendar days of this determination. Such appeals will be considered in the scheduled public hearing and decided by the Hearing Examiner in a subsequent written decision.

SEPA Appeals must be in writing and contain the following information:

1. The case number designated by the County and the name of the applicant;
2. The name and signature of each person or group (petitioners) and a statement showing that each petitioner is entitled to file an appeal as described under Section 40.510.030(H) of the Clark County Code. If multiple parties file a single petition for review, the petition shall designate one party as the contact representative with the Development Services Manager. All contact with the Development Services Manager regarding the petition, including notice, shall be with this contact person;
3. A brief statement describing why the SEPA determination is in error.

The decision of the Hearing Examiner on any SEPA procedural appeal can not be appealed to the Board of County Commissioners, but must pursue judicial review.

Staff Contact Person: Planner – Vicki Kirsher, (360) 397-2375, ext. 4178
Team Leader – Travis Goddard (360) 397-2375, ext. 4180

Responsible Official: Michael V. Butts, Development Services Manager

DECISION

Based upon the proposed plan [*Exhibit 2*] and the findings and conclusions discussed above, the Development Services Manager hereby **APPROVES** this request, subject to the following conditions of approval:

CONDITIONS OF APPROVAL

A	Final Construction Review for Land Division Review & Approval Authority: Development Engineering
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Prior to construction, a Final Construction Plan shall be submitted for review and approval, consistent with the approved preliminary plan and the following conditions of approval:

A-1 Any off-site improvements to either the existing driveway or turnout on adjacent property to the west may require a Shoreline Permit and/or Habitat Permit. (See *Shoreline Finding 1*)

A-2 Final Transportation Plan/On-Site - The applicant shall submit and obtain County approval of a final transportation design in conformance to CCC 40.350 and the following conditions of approval:

- a. The applicant shall dedicate a 30-foot half-width right-of-way along the southern boundary of the proposed site for the future collector road. If, prior to final plat, Clark County removes this future roadway from the Arterial Atlas, this condition would not be warranted and will not be required. In such case, a 20-foot joint driveway easement would be allowed. (See *Transportation Finding 1*)
- b. All new driveways/new joint driveways shall have a minimum width of 12 feet of clear, unobstructed driving surface. Driveways longer than 300 feet shall be provided with an approved turnaround at the terminus. There shall also be approved turnouts constructed such that the maximum distance from turnout to turnout or from turnout to turnarounds does not exceed 500 feet per standard detail drawing # 33. (See *Transportation Finding 2*)
- c. Minimum driveway pave-back shall be 20 feet or to the right-of way line, whichever ever is greater. The driveway pave-back shall be constructed in conformance with Clark County standard detail drawing #F-20. (See *Transportation Finding 2*)
- d. The existing joint driveway easement shall be extended from the westerly lot line of the proposed Lot 1 to the proposed Lot 3 with a minimum 12-foot wide all weather surface within a 20-foot easement. (See *Transportation Finding 2*)
- e. An engineering drawing shall be submitted for review and approval to satisfy engineering recommendations 1-5 identified in the road modification application, as follows:
 1. For the lower turnout on the existing joint driveway, increase the turnout length to 25 feet long with 5:1 transition tapers.
 2. Install flexible guide post (ground mount per WSDOT standard Plan M-40.10-00 type WW) spaced at equal intervals approximately 20-30 feet apart on the downhill side of the private driveway west of the existing turnout adjacent to the mobile home that will help define the edge of roadway during the day and night since it is a narrow cut into a steep hillside.

3. Install a private stop sign at the intersection of the private driveway and NE 112th Avenue.
4. Maintain the existing 10 mph posted speed limit for the private joint driveway.
5. The upper turnout shall be improved to comply with Clark County standard drawing 33. *(See Transportation Finding 5)*

A-3 Transportation:

- a. Signing and Striping Plan: If applicable, the applicant shall submit a signing and striping plan and a reimbursable work order, authorizing County Road Operations to perform any signing and pavement striping required within the County right-of-way. This plan and work order shall be approved by the Department of Public Works prior to final plat or final site plan approval.
- b. Traffic Control Plan: Prior to issuance of any building or grading permits for the development site, the applicant shall obtain written approval from Clark County Department of Public Works of the applicant's Traffic Control Plan (TCP). The TCP shall govern all work within or impacting the public transportation system.

A-4 Final Stormwater Plan - The applicant shall submit and obtain County approval of a final stormwater plan designed in conformance to CCC 40.385.

- a. Stormwater runoff from extension of the joint driveway from the proposed Lot 1 to Lot 3 shall be managed per requirements of the stormwater code. *(See Stormwater Finding 2)*

A-5 Erosion Control Plan: The applicant shall submit and obtain County approval of a final erosion control plan designed in accordance with CCC 40.385.

A-6 Other Required Documents - The following documents shall be submitted with the Final Construction/Site Plan:

- a. Developer's Covenant: A "Developer Covenant to Clark County" shall be submitted for recording that specifies the following Responsibility for Stormwater Facility Maintenance: For stormwater facilities for which the county will not provide long-term maintenance, the developer shall make arrangements with the existing or future (as appropriate) occupants or owners of the subject property for assumption of maintenance to the county's Stormwater Facilities Maintenance Manual as adopted by Chapter 13.26A. The responsible official prior to county approval of the final stormwater plan shall approve such arrangements. The county may inspect privately maintained facilities for compliance with the requirements of this chapter. An access easement to the private facilities for the purpose of inspection shall be granted to the county. If the parties responsible for long-term maintenance fail to maintain their facilities to acceptable standards,

the county shall issue a written notice specifying required actions to be taken in order to bring the facilities into compliance. If these actions are not performed in a timely manner, the county shall take enforcement action and recover from parties responsible for the maintenance in accordance with Section 32.04.060.

(Example: Deed dedicating required right-of-way)

- A-7 Excavation and Grading:** Excavation/grading shall be performed in compliance with CCC 14.07. A grading permit is required if excavation exceeds 50 cubic yards and a SEPA is required if the amount of cut or fill exceeds 500 cubic yards.

B	Prior to Construction of Development Review & Approval Authority: Development Inspection
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Prior to construction, the following conditions shall be met:

- B-1 Pre-Construction Conference:** Prior to construction or issuance of any grading or building permits, a pre-construction conference shall be held with the County.
- B-2 Erosion Control:** Prior to construction, erosion/sediment controls shall be in place. Sediment control facilities shall be installed that will prevent any silt from entering infiltration systems. Sediment controls shall be in place during construction and until all disturbed areas are stabilized and any erosion potential no longer exists.
- B-3 Erosion Control:** Erosion control facilities shall not be removed without County approval.
- B-4 Demolition Permits:** Prior to demolition and/or removal of structures on the site, the applicant shall obtain demolition permits from the Clark County Building Division. (*See Land Use Finding 4*)
- B-5 Contamination:** If during the course of construction activities on the site contamination is discovered, it shall be reported to the Washington Department of Ecology. Contact the Environmental Report Tracking System Coordinator at the Southwest Regional Office at (360) 407-6300 for more information. (*See Department of Ecology Finding 1*)

C	Provisional Acceptance of Development Review & Approval Authority: Development Inspection
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Prior to provisional acceptance of development improvements, construction shall be completed consistent with the approved final construction plans and the following conditions of approval:

- C-1 Wetlands and Buffers:** Permanent physical demarcation of the boundaries in a manner approved by the County's Wetland Biologist (i.e. fencing, hedgerows,

berms etc.) and posting of approved signage on each lot or every 100 feet of the boundary, whichever is less. *(See Wetland Finding 2)*

D	Final Plat Review & Recording Review & Approval Authority: Development Engineering
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Prior to final plat approval and recording, the following conditions shall be met:

- D-1** Building Envelope: The envelope on Lot 1 shall be modified to show the required 25-foot street side setback from the roadway running along the southern boundary. *(See Land Use Finding 2)*
- D-2** The common property line between Lot 1 and Lot 2 shall either be relocated to so the barn meets the prescribed 30-foot rear setback or the barn shall be removed prior to recordation of the final plat. *(See Land Use Finding 2)*
- D-3** Building Envelope: The building envelope for Lot 1 shall be modified to show the 30-foot rear setback required for fire protection purposes along the eastern property. The envelopes on Lot 2 and Lot 3 shall be revised to show a 30-foot side setback. *(See Land Use Finding 2 and Fire Protection Finding 3)*
- D-4** The existing shed shown on Lot 1 shall be removed prior to recordation of the final plat. *(See Land Use Findings 2)*
- D-5** Building Envelopes: Distance of development envelopes to all property lines shall be clearly identified on the final plat. *(See Land Use Finding 2)*
- D-6** **Habitat**: The applicant shall clearly show building envelopes and habitat areas on the face of the final plat. Any revisions to the proposed building envelopes will require additional review. *(See Habitat Finding 2)*
- D-7** **Wetlands**:
 - a.** Development Envelopes avoiding all wetlands and buffers shall be shown on the final plat. *(See Wetlands Finding 2)*
 - b.** The applicant shall record a conservation covenant with the County Auditor, in a form approved by the County Prosecuting Attorney, which runs with the land and requires that the wetlands and buffers remain in natural state. *(See Wetlands Finding 2)*
- D-8** **Shoreline**:
 - a.** The final plat shall delineate that area within shoreline jurisdiction. *(See Shoreline Finding 1)*
 - b.** The applicant shall obtain an approved Shoreline Conditional Use permit and shall comply with any said conditions of said permit prior to any construction or development. *(See Shoreline Finding 2)*

D-9 Geo-Hazard: The applicant's geotechnical engineer or land surveyor shall establish the boundary of the 100-foot setback line from top of steep slope to the building envelope. The setback line shall be delineated on the final plat. (See *Geologic Hazard Finding 1*)

D-10 On-Site Water Wells and Sewage System Requirements - For on-site water wells and sewage system, the following requirements shall be completed:

- a. Small public water systems shall be drilled and approved by the Health Department prior to final plat approval.
- b. A 100-foot radius of protection for any wells shall be shown on the final plat map and be located within the boundaries of the land division.
- c. The location of all existing wells (in use, not in use or abandoned) shall be indicated on the final plat map.
- d. Each on-site sewage system shall be on the same lot it serves.
- e. Test hole locations corresponding to the designated treatment sites shall be surveyed and indicated on the final plat map.
- f. No public or private easements or rights-of-way shall be extended through the approved, reserve or existing on-site sewage system sites.
- g. Provisions shall be made to prevent flow or accumulation of surface water over the area where an on-site sewage system is located.
- h. A copy of the County approved final drainage plan shall be submitted for review. If no drainage plan is required, written confirmation of this fact shall be submitted.
- i. All proposed lots shall have a current approved septic system site evaluation or septic system permit. Should either be allowed to expire, subsequent approval of an on-site sewage treatment system cannot be assured and, therefore, the Health Department will not sign the final plat.
- j. It shall be determined whether the existing guest house on Lot 1 has plumbing and, if it does, a satisfactory verification of the guest house system or connection of the guest house plumbing to an approved on-site system will be required. (See *Utilities Finding 2*)
- k. The existing on-site system(s) require satisfactory Operation and Maintenance (O&M) inspection(s) be completed. (See *Utilities Finding 2*)

D-11 Impact Fees: The final plat shall identify that impact fees are waived for the existing residence on Lot 1. (See *Impact Fee Finding 1*)

D-12 Developer Covenant - A "Developer Covenant to Clark County" shall be submitted for recording to include the following:

- a. Critical Aquifer Recharge Areas: "The dumping of chemicals into the groundwater and the use of excessive fertilizers and pesticides shall be avoided. Homeowners are encouraged to contact the State Wellhead Protection program at (206) 586-9041 or the Washington State Department of Ecology at 800-RECYCLE for more information on groundwater /drinking supply protection."
- b. Erosion Control: "Building Permits for lots on the plat shall comply with the approved erosion control plan on file with Clark County Building Department and put in place prior to construction."
- c. Responsibility for Stormwater Facility Maintenance: For stormwater facilities for which the county will not provide long-term maintenance, the developer shall make arrangements with the existing or future (as appropriate) occupants or owners of the subject property for assumption of maintenance to the county's Stormwater Facilities Maintenance Manual as adopted by Chapter 13.26A. The responsible official prior to county approval of the final stormwater plan shall approve such arrangements. Final plats shall specify the party(s) responsible for long-term maintenance of stormwater facilities within the Developer Covenants to Clark County. The county may inspect privately maintained facilities for compliance with the requirements of this chapter. If the parties responsible for long-term maintenance fail to maintain their facilities to acceptable standards, the county shall issue a written notice specifying required actions to be taken in order to bring the facilities into compliance. If these actions are not performed in a timely manner, the county shall take enforcement action and recover from parties responsible for the maintenance in accordance with Section 32.04.060.
- d. If applicable, a covenant running with the land must be recorded with the plat with provides the county inspection staff permission to inspect individual onsite stormwater systems with prior notifications.
- e. Responsibility for Driveway Maintenance: A joint driveway maintenance agreement shall be submitted for approval and recorded with the County Auditor, which shall set forth terms and conditions of responsibility for maintenance.
- f. Land Near Agricultural Resources: Land owners and residents are hereby notified that this plat is located within 500 feet of lands zoned agriculture (AG-20), or is in current use under Revised Code of Washington (RCW) Chapter 84.34. Therefore, the subject property is within or near designated agricultural land on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration. Potential discomforts or inconveniences may include, but

are not limited to: noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft) during any twenty-four (24) hour period, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides.

- g. Impact Fees: "In accordance with CCC 40.610, except for Lot 1 with the existing residence designated on the final plat as waived, the School and Traffic Impact Fees for each dwelling in this short plat are: \$8,290.00 (Battle Ground School District) and \$2,749.47 (\$1,402.23 – local and \$1,347.24 – regional) Rural 1 sub-area. The impact fees for lots on this plat shall be fixed for a period of three years, beginning from the date of preliminary plat approval, dated _____, and expiring on _____. Impact fees for permits applied for following said expiration date shall be recalculated using the then-current regulations and fees schedule."

D-13 Addressing: At the time of final plat, existing residence(s) that will remain may be subject to an address change. Addressing will be determined based on point of access.

D-14 Plat Notes - The following notes shall be placed on the final plat:

- a. Setbacks: Accessory buildings used for agricultural purposes shall maintain a 50-foot side yard setback. (*See Land Use Finding 2*)
- b. Archaeological: "If any cultural resources and/or human remains are discovered in the course of undertaking the development activity, the Department of Archaeology and Historic Preservation in Olympia and Clark County Community Development shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines." (*See Archaeological Finding 1*)
- c. Septic Systems: "The approved, initial, reserve, and/or existing sewage system sites shall be protected from damage due to development. All sites shall be maintained so they are free from encroachment by buildings and not be subject to vehicular traffic or other activity which would adversely affect the site or system function." (*See Utilities Finding 2*)
- d. Wetland Covenants: "Clark County Wetland Protection Ordinance (Clark County Code Chapter 40.450) requires wetlands and wetland buffers to be maintained in a natural state. Refer to the Conservation Covenant recorded in conjunction with this plat for limitations on the maintenance and use of the wetland and wetland buffer areas identified on the face of this plat." (*See Wetlands Finding 2*)
- e. Wetland Development Envelopes: "No clearing or development activities shall occur outside the development envelopes shown on the face of this plat"

without prior approval from the Clark County Development Services Manager." (See *Wetlands Finding 2*)

- f. Shoreline: "Any vegetation removal, construction or other development within the shoreline management area as delineated on the face of this plat may require review for compliance with the County's Shoreline Master Program." (See *Shoreline Finding 1*)
- g. Utilities: "An easement is hereby reserved under and upon the exterior six (6) feet at the front boundary lines of all lots for the installation, construction, renewing, operating and maintaining electric, telephone, TV, cable, water and sanitary sewer services. Also, a sidewalk easement, as necessary to comply with ADA slope requirements, shall be reserved upon the exterior six (6) feet along the front boundary lines of all lots adjacent to public streets."
- h. Geo-Hazard: Except for existing improvements on Lot 1, all future structures constructed on lots within this short plat are subject to the 100-foot slope setback requirements. (See *Geo-Hazard Finding 1*)

E	Building Permits
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	Review & Approval Authority: Customer Service
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Prior to issuance of a building permit, the following conditions shall be met:

- E-1 Geo-Hazard:** Any proposed construction beyond the setback of the area of potential instability, as delineated on the final plat, requires approval of a geotechnical analysis report prepared by a professional engineer licensed in the State of Washington. (See *Geologic Hazard Finding 1*)
- E-2 Stormwater:** At time of building permit application, the home owners must submit a stormwater plan for review and obtain approval for the onsite stormwater control system, unless the stormwater control system for the lot is pre-designed and approved with the final stormwater plan. (See *Stormwater Finding 2*)
- E-3 Fire Marshal:**
 - a. Building construction occurring subsequent to this application shall be in accordance with the provisions of the county's building and fire codes. Additional specific requirements may be made at the time of building construction as a result of the permit review and approval process. (See *Fire Protection Finding 2*)
 - b. Alternative construction methods shall be used to meet fire flow; this will require a class "A" rated roof. (See *Fire Protection Finding 3*)

- c. An automatic fire sprinkler system may be required for new residential structures exceeding 3,600 square feet of habitable space. (*See Fire Protection Finding 3*)

E-4 Impact Fees - The applicant shall pay impact fees based on the number of dwelling units, as follows:

- a. \$8,290.00 per dwelling for School Impact Fees (Battle Ground School District);
- b. \$2,749.47 per dwelling for Traffic Impact Fees (Rural 1 TIF Sub-area – \$1,402.23 local and \$1,347.24 regional);

If the building permit application is made more than three years following the date of preliminary land division plan approval, the impact fees shall be recalculated according to the then-current rate.

F	Occupancy Permits Review & Approval Authority: Building
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Prior to issuance of an occupancy permit, the following conditions shall be met:

- F-1 Engineering:** Installation of the approved onsite stormwater control system shall receive final approval. (*See Stormwater Finding 2*)
- F-2 Fire Marshal** - The applicant shall provide an unobstructed vertical clearance of not less than 13.5 feet with an all weather driving surface capable of supporting the imposed loads of fire apparatus. (*See Fire Protection Finding 4*)

G	Development Review Timelines & Advisory Information Review & Approval Authority: None - Advisory to Applicant
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- G-1** Any off-site improvements to either the existing driveway or turnout on adjacent property to the west may require a Shoreline Permit and/or Habitat Permit. (*See Shoreline Finding 1*)
- G-2 Land Division** - Within 5 years of preliminary plan approval, a Fully Complete application for Final Plat review shall be submitted.
- G-3 Department of Ecology Permit for Construction Stormwater** - A permit from the Department of Ecology (DOE) is required If:
- The construction project disturbs one or more acres of land through clearing, grading, excavating, or stockpiling of fill material; **AND**
 - There is a possibility that stormwater could run off the development site during construction and into surface waters or conveyance systems leading to surface waters of the state.

The cumulative acreage of the entire project whether in a single or in a multiphase project will count toward the one acre threshold. This applies even if the applicant is responsible for only a small portion [less than one acre] of the larger project planned over time. **The applicant shall Contact the DOE for further information.**

H	Post Development Requirements Review & Approval Authority: As specified below
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H-1 None

Note: The Development Services Manager reserves the right to provide additional comment and findings of fact regarding this decision, if appealed.

Decision Appeal Process:

An **appeal** of any aspect of this decision may be appealed to the County Hearing Examiner only by a party of record. A "Party of Record" includes the applicant and those individuals who submitted written testimony to the Development Service Manager within the designated comment period.

The appeal shall be filed with the Department of Community Development, Permit Services Center, 1300 Franklin Street, Vancouver, Washington, 98668, within fourteen (14) calendar days from the date the notice of final land use decision is mailed to parties of record. This decision was mailed on December 22, 2009. Therefore any appeal must be received in this office by 12:00 p.m. (noon) on January 5, 2009.

Any appeal of the final land use decisions shall be in writing and contain the following:

- Case number designated by the County;
- Name of the applicant;
- Name of each petitioner;
- Signature of each petitioner or his or her duly authorized representative;
- A statement showing the following:
 - That each petitioner is entitled to file the appeal as an interested party in accordance with CCC 40.510.030(H);
 - The specific aspect(s) of the decision being appealed;
 - The reasons why each aspect is in error as a matter of fact or law;
 - The evidence relied on to prove the error; and,
- The appeal fee of **\$5,240** (Planning = \$4,826 + Engineering = \$414).

Ninety percent (90%) of the fee will be refunded if the appeal is withdrawn in writing by the petitioner at least 15 calendar days before the public meeting to consider the appeal.

Attachments:

- Copy of Proposed Preliminary Plan

A copy of the approved preliminary plan, SEPA Checklist and Clark County Code are available for review at:

**Public Service Center
Department of Community Development
1300 Franklin Street
P.O. Box 9810
Vancouver, WA. 98666-9810
Phone: (360) 397-2375; Fax: (360) 397-2011**

A copy of the Clark County Code is also available on our Web Page at:
Web Page at: <http://www.clark.wa.gov>

IN A PORTION OF THE SW 1/4 SW 1/4 OF SECTION 15
T. 3 N., R. 2 E., W.M., CLARK COUNTY, WASHINGTON
ASSESSOR'S PARCEL NO.(S) OF ORIGINAL TRACT LOT 39
ASSESSOR'S SERIAL NO. 195263-000 SHORT PLAT FILE NO. X
JOB NO. 08-205 JUNE 25, 2009

LINE TABLE	
LINE	LENGTH
L1	6.46
L2	5.071739
L3	6.651239
L4	100.00
L5	7.11239
L6	7.204721
L7	7.620
L8	5.3300
L9	8.861239
L10	5.894221
L11	100.00
L12	5.8971239
L13	100.00
L14	7.27139
L15	96.58
L16	18.16239
L17	49.11239
L18	37.25
L19	100.00
L20	75.85
L21	87.0000
L22	76.30
L23	43.5000
L24	70.74
L25	26.38
L26	35.5000
L27	3.82
L28	55.0000
L29	71.27
L30	89.4721
L31	76.06
L32	73.94
L33	89.4721

-01- 3.1° NADWIDE WITH 4-STRAND BARKHIRE FENCE
 FENCE 5.6° 22.5" W, 12.1° OF CORNER
 FENCE CORNER 3.1° NADWIDE WITH 4-STRAND BARKHIRE
 FENCE N. 5.8° S, 5° 17.0031" W, 23.3° OF CORNER
 FENCE CORNER 3.1° NADWIDE WITH 4-STRAND BARKHIRE
 FENCE 8.6° S, 8° 23.113" W, 20.1° OF CORNER
 -02- 3.1° NADWIDE WITH 4-STRAND BARKHIRE FENCE
 1.6° SOUTH OF LINE
 -03- 3.1° NADWIDE WITH 4-STRAND BARKHIRE FENCE
 2.0° SOUTH OF LINE
 -04- 3.1° NADWIDE WITH 4-STRAND BARKHIRE FENCE
 1.6° SOUTH OF LINE
 -05- 3.1° NADWIDE WITH 4-STRAND BARKHIRE FENCE
 1.6° SOUTH OF LINE
 -06- 3.1° NADWIDE WITH 4-STRAND BARKHIRE FENCE
 5.8° SOUTH OF LINE
 -07- 3.1° NADWIDE WITH 4-STRAND BARKHIRE FENCE
 5.2° SOUTH OF LINE
 -08- 3.1° NADWIDE WITH 4-STRAND BARKHIRE FENCE
 3.3° SOUTH OF LINE
 -09- 3.1° NADWIDE WITH 4-STRAND BARKHIRE FENCE
 2.8° SOUTH OF LINE
 -10- 3.1° NADWIDE WITH 4-STRAND BARKHIRE FENCE
 3.1° SOUTH OF LINE
 -11- 3.1° NADWIDE WITH 4-STRAND BARKHIRE FENCE
 3.2° SOUTH OF LINE
 -12- 3.1° NADWIDE WITH 4-STRAND BARKHIRE FENCE
 2.8° SOUTH OF LINE
 -13- 3.1° NADWIDE WITH 4-STRAND BARKHIRE FENCE
 5.4° 23.1" W, 23.3° OF CORNER
 -14- 3.1° NADWIDE WITH 4-STRAND BARKHIRE FENCE
 5.4° 23.1" W, 23.3° OF CORNER

LEGEND:

- INDICATES MONUMENT FOUND AS NOTED
- INDICATES WELL
- SEPTIC ○ INDICATES SEPTIC DRAIN FIELD
- () INDICATES RECORD DISTANCE
- ① INDICATES FOUND CALL
- (SEE FOUND CALL TABLE)
- 10' INDICATES FENCE CALL
- (SEE FENCE CALL TABLE)
- INDICATES ORDINARY HIGH WATER LINE BASED ON VEGETATION LINE
- OHW INDICATES PERC TEST PIT AS FIELD LOCATED 03-12-09

FOUND OUR CONCRETE MONUMENT WITH 3" BRASS CAP AS SET IN R.O.S. (10-107) AND SHOWN IN R.O.S. (18-30); HELD: SEE LCR (4-36) AND LCR (1-39) 1

MINISTER AND GLAESER SURVEYING, INC. MAKES NO WARRANTIES AS TO MATTERS OF UNWRITTEN TITLE SUCH AS ADVERSE POSSESSION, ACQUISITION, ESTOPPEL, ETC. A FIELD TRAVERSE WAS PERFORMED USING A ONE SECOND TOTAL STATION. THE FIELD TRAVERSE MET THE MINIMUM STANDARDS FOR SURVEYS AS DESIGNATED IN WAC 172.130 AND 172.141. CORRECTIONS NOTED AS FOLLOWS: VISITED ON AUGUST 26, 2008.

NOTE:

FOUND CALLS:
 ① FOUND 3 1/2" 100N PIPE AS SHOWN IN R.O.S. (5-67);
 RKM INVESTMENTS INC.
 CN 10563000

- ① FOUND 3.61" IRON PIPE AS SHOWN IN P.O.S. (3-67); S. 65°11'43" E. 21.39' FROM CORNER
- ② FOUND 27" IRON PIPE AS SHOWN IN P.O.S. (3-67); S. 25°57'30" E. 21.51' FROM CORNER
- ③ QUANTITY 3.61" IRON PIPE; 9.40' SOUTH OF LINE; NO RECORD FOUND
- ④ FOUND 1.67" BOLT AS SHOWN IN P.O.S. (26-53) S. 61°43'08" W. 8.37' FROM CORNER
- ⑤ FOUND 1/2" WOOD W-PAC AS SET IN P.O.S. (26-53) AT CALCULATED CORNER. (FIELD)
- ⑥ FOUND 1/2" WOOD W-PAC AS SET IN P.O.S. (26-53) AT CALCULATED CORNER. (FIELD)

SECTION 15 BETWEEN FOUND MONUMENTS
THE SOUTH LINE OF THE SW 1/4 OF
BASIS OF BEARING: N 89.33.13 - W ALONG

50 0 100 150 200
SCALE 1 INCH = 100 FEET

BISHOP
SN 197024000

BISHOP
SN 196999000

MAUL
197025000